

United States District Court  
for the  
District of South Carolina  
Spartanburg Division

Robert Moss, et al. )  
                          )  
                          )  
                          )  
Plaintiffs )  
                          )  
                          )  
v. ) Civil Action No. 7:09-cv-1586:HRH  
                          )  
                          )  
                          )  
Spartanburg County School District )  
No. 7, a South Carolina body politic )  
and corporate )  
Defendant )

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PLAINTIFFS' AMENDED MOTION TO AMEND COMPLAINT

This Motion amends the “Motion to Amend Complaint” filed May 27, 2010, as to the “Required Consultation,” p. 3, *infra*.

Now come plaintiffs pursuant to *Fed. R. Civ. P.* Rules 15 and 20 and move for leave to amend the Second Amended Complaint and to file and serve attached Exhibit A, the proposed Third Amended Complaint. The Third Amended Complaint will make the following changes to the Second Amended Complaint (which is the presently operative Complaint):

1. Addition of Melissa Moss as a party plaintiff. This action was

commenced by Robert Moss individually and as natural guardian for his unnamed minor child. His child, Melissa Moss, has recently become an adult. She wishes to join this action as a party plaintiff in her own right. The amendments that will accomplish this are at Exhibit A, masthead and ¶¶ 6 through 10.

2. Specification of 42 U.S.C. 1988 as the source of plaintiffs' prayer for attorney fees. The Complaint's prayer for relief gave notice that plaintiffs sought attorney fees but did not specify the statutory authority for this prayer. Plaintiffs wish to correct this oversight. The amendment that will accomplish this is at Exhibit A, ¶ 2.

3. Amendment to claim nominal damages. All plaintiffs wish to amend to claim nominal damages. The amendment that will accomplish this is at Exhibit A, prayer for relief.

The grounds of this motion are:

As to Rule 15: allowance of the motion will not prejudice defendant. It will not delay trial or increase discovery. The deadline for amendments has not run. The claim asserted by the proposed new plaintiff is identical to that of the present plaintiffs.

As to Rule 20: The claim asserted by the proposed new plaintiff is identical to that of the present plaintiffs. Common questions of law and fact will expectably arise in these claims.

Required Consultation: Defendant has advised that it does not object to allowance of this motion.

Respectfully submitted, May 28, 2010.

Aaron J. Kozloski  
D.S.C. Bar. No. 9510  
Capitol Counsel, L.L.C.  
P.O. Box 1996  
Lexington, SC 29071  
Phone 803-748-1320  
Fax 888-513-6021  
Mobile 803-465-1400

[Aaron@capitolcounsel.us](mailto:Aaron@capitolcounsel.us)

George Daly  
(*pro hac vice*)  
139 Altondale Avenue  
Charlotte N.C. 28207  
Tel: 704-333-5196  
[Gdaly1@bellsouth.net](mailto:Gdaly1@bellsouth.net)  
N.C. Bar No. 1071

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that this day I served the foregoing Motion on opposing counsel through the Court's electronic filing system.

May 27, 2010.

s/Aaron Kozloski